



Order under Section 21.2 of the Statutory Powers Procedure Act and the Residential Tenancies Act, 2006

Citation: Hazelview Property Services Inc. v Dussard, 2023 ONLTB 14214

Date: 2023-01-09

File Number: LTB-L-030341-22-RV2

In the matter of: 301, 165 JAMESON AVE
TORONTO ON M6K2Y5

Between: Hazelview Property Services Inc. Landlord

And

Kenneth Dussard Tenant

Review Order

Hazelview Property Services Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Kenneth Dussard (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was resolved by order LTB-L-030341-22, issued on November 28, 2022.

On December 5, 2022, the Tenant requested a review of the order and that the order be stayed until the request to review the order is resolved.

On December 6, 2022, interim order LTB-L-030341-22-RV-IN was issued, staying the order issued on November 28, 2022.

The request was heard in by videoconference on December 22, 2022. Only the Landlord's Legal Representative attended the hearing.

On January 3, 2023, order LTB-L-030341-22-RV was issued declaring the Tenant's request abandoned.

On January 4, 2023, the Tenant request a review of the order issued on January 3, 2023, and that the order be stayed until the request to review the order is resolved.

A preliminary review of the request was completed without a hearing.

Determinations:

1. The Tenant alleges that they were not reasonably able to participate at the review hearing and that the order contains a serious error or that a serious error occurred in the proceedings.



2. On the basis of the submissions made in the request, I am not satisfied that there is a serious error in the order or that a serious error occurred in the proceedings or that the Tenant was not reasonably able to participate in the proceeding.
3. This is the Tenant's second request to review. In this request, the Tenant makes the similar allegations as in their first request – that they were not informed of the date and time of the hearing prior to the hearing taking place. In other words, the Tenant alleges they did not receive the Notice of Hearing prior to the hearing taking place.
4. In accordance with subsection 191(1) of the *Residential Tenancies Act, 2006* (the 'RTA'), a notice is sufficiently given to a person by sending it by mail to the last address where the person resides. A notice given by mail is deemed to have been given on the fifth day after mailing (s.191(3) of the RTA and Rule 3.9).
5. The LTB's records indicate that the Notice of Hearing for the hearing on October 25, 2022, was mailed to the rental unit on October 5, 2022. The Notice of Hearing for the review hearing on December 22, 2022, was also mailed to the rental unit on December 7, 2022. In accordance with the RTA and the Rules, the notices are deemed to have been given on October 10, 2022, and December 12, 2022, respectively.
6. Having regard to the submissions made in the request and the LTB's record, I find it unlikely that the notices were not delivered to the rental unit address on two separate occasions. There is no indication in the request that the Tenant has issues with their mail delivery and there is nothing in the LTB's records to suggest that the notices the LTB mailed to the rental unit were returned as undeliverable. Accordingly, I do not accept the submissions in the Tenant's request to review.
7. Given the above, I am not satisfied that the Tenant was not reasonably able to participate at the review hearing.
8. In accordance with subsection 7(1) of the *Statutory Powers Procedure Act*, the LTB was entitled to proceed in the absence of the Tenant and dismiss the Tenant's review request because the Tenant failed to attend the review hearing, although properly served with the Notice of Hearing by the LTB.

It is ordered that:

1. The request to review order LTB-L-030341-22-RV, issued on January 3, 2023, is denied.
2. The order is confirmed and remains unchanged.

January 9, 2023
Date Issued

Khalid Akram

Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor
Toronto ON M7A 2G6

If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.